

CONSERVATION COMMISSION AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions related to the Conservation Commission.

Highlighted Provisions:

This bill:

- ▶ modifies the membership and duties of the Conservation Commission;
- ▶ modifies the procedure for making a loan or a grant from the Agriculture Resource Development Fund;
- ▶ authorizes an advisory board of the Conservation Commission to approve loans from the Agriculture Resource Development Fund;
- ▶ modifies the duties of a conservation district to include responsibility for planning watershed and flood control projects;
- ▶ clarifies that a conservation district may not exercise taxing authority; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 4-18-102**, as last amended by Laws of Utah 2017, Chapter 345
- 4-18-104**, as last amended by Laws of Utah 2017, Chapter 345
- 4-18-105**, as last amended by Laws of Utah 2017, Chapters 345 and 463
- 4-18-106**, as last amended by Laws of Utah 2017, Chapter 345
- 17D-3-103**, as enacted by Laws of Utah 2008, Chapter 360
- 17D-3-105**, as last amended by Laws of Utah 2014, Chapter 189
- 17D-3-301**, as last amended by Laws of Utah 2017, Chapter 70

REPEALS:

33 **17D-3-306**, as enacted by Laws of Utah 2008, Chapter 360

34 **17D-3-307**, as enacted by Laws of Utah 2008, Chapter 360

35 **17D-3-308**, as enacted by Laws of Utah 2008, Chapter 360

36 **17D-3-309**, as last amended by Laws of Utah 2011, Chapter 292

37

38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **4-18-102** is amended to read:

40 **4-18-102. Purpose declaration.**

41 (1) The Legislature finds and declares that:

42 (a) the soil and water resources of this state constitute one of the state's basic assets;

43 and

44 (b) the preservation of soil and water resources requires planning and programs to

45 ensure:

46 (i) the development and utilization of soil and water resources; and

47 (ii) soil and water resources' protection from the adverse effects of wind and water

48 erosion, sediment, and sediment related pollutants.

49 (2) The Legislature finds that local production of food is essential for:

50 (a) the security of the state's food supply; and

51 (b) the self-sufficiency of the state's citizens.

52 (3) The Legislature finds that sustainable agriculture is critical to:

53 (a) the success of rural communities;

54 (b) the historical culture of the state;

55 (c) maintaining healthy farmland;

56 (d) maintaining high water quality;

57 (e) maintaining abundant wildlife;

58 (f) high-quality recreation for citizens of the state; and

59 (g) helping to stabilize the state economy.

60 (4) The Legislature finds that livestock grazing on public lands is important for the

61 proper management, maintenance, and health of public lands in the state.

62 (5) The Legislature encourages each agricultural producer in the state to operate in a

63 reasonable and responsible manner to maintain the integrity of [~~land,~~] soil, water, and air.

(6) The department shall administer the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107, to encourage each agricultural producer in this state to operate in a reasonable and responsible manner to maintain the integrity of the state's resources.

Section 2. Section **4-18-104** is amended to read:

4-18-104. Conservation Commission created -- Composition -- Appointment -- Terms -- Compensation -- Attorney general to provide legal assistance.

(1) There is created within the department the Conservation Commission to perform the functions specified in this chapter.

(2) The Conservation Commission shall be composed of ~~[15]~~ nine members, including:

(a) the director of the Extension Service at Utah State University or the director's designee;

~~[(b) the president of the Utah Association of Conservation Districts or the president's designee;]~~

~~[(c)]~~ (b) the commissioner or the commissioner's designee;

~~[(d)]~~ (c) the executive director of the Department of Natural Resources or the executive director's designee;

~~[(e)]~~ (d) the executive director of the Department of Environmental Quality or the executive director's designee;

~~[(f) the chair, or the chair's designee, of the State Grazing Advisory Board, created in Section 4-20-103;]~~

~~[(g)]~~ (e) the president of the County Weed Supervisors Association or the president's designee; and

~~[(h) seven] (f) four~~ district supervisors ~~[who provide district representation on the commission on a multicounty basis; and];~~

~~[(i) the director of the School and Institutional Trust Lands Administration or the director's designee.]~~

~~[(3) If a district supervisor is unable to attend a meeting, an alternate may serve in the place of the district supervisor for that meeting.]~~

(i) one from each congressional district in the state; and

(ii) none of whom are currently serving on an association that represents a conservation

95 district.

96 ~~[(4)]~~ (3) The members of the commission specified in Subsection (2)~~[(4)]~~~~(f)~~ shall:

97 (a) be recommended by the chair of the commission to the governor; and

98 (b) be appointed by the governor with the consent of the Senate.

99 ~~[(5)]~~ (4) (a) Except as required by Subsection ~~[(5)]~~ (4)(b), as terms of current
100 commission members expire, the governor shall appoint each new member or reappointed
101 member to a four-year term.

102 (b) Notwithstanding the requirements of Subsection ~~[(5)]~~ (4)(a), the governor shall, at
103 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
104 commission members are staggered so that approximately half of the commission is appointed
105 every two years.

106 (c) A commission member may not be appointed to more than two consecutive terms.

107 ~~[(6)]~~ (5) When a vacancy occurs in the membership for any reason, the replacement
108 shall be appointed for the unexpired term.

109 ~~[(7)]~~ (6) The commissioner is chair of the commission and, in the event of a tie, shall
110 have the deciding vote.

111 ~~[(8)]~~ (7) Attendance of ~~[a majority]~~ five members of the commission ~~[members]~~ at a
112 meeting constitutes a quorum.

113 ~~[(9)]~~ (8) A member may not receive compensation or benefits for the member's service,
114 but may receive per diem and travel expenses in accordance with:

115 (a) Section 63A-3-106;

116 (b) Section 63A-3-107; and

117 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
118 63A-3-107.

119 ~~[(10)]~~ (9) The commission shall keep a record of the commission's actions.

120 ~~[(11)]~~ (10) The attorney general shall provide legal services to the commission upon
121 request.

122 Section 3. Section **4-18-105** is amended to read:

123 **4-18-105. Conservation Commission -- Functions and duties.**

124 (1) The commission shall:

125 (a) facilitate the development and implementation of the strategies and programs

126 necessary to:

127 (i) protect, conserve, utilize, and develop the soil, ~~[air, and]~~ water, and air resources of
128 the state; and

129 (ii) promote the protection, integrity, and restoration of land for agricultural and other
130 beneficial purposes;

131 (b) disseminate information regarding districts' activities and programs;

132 (c) supervise the formation, reorganization, or dissolution of districts according to the
133 requirements of Title 17D, Chapter 3, Conservation District Act;

134 (d) prescribe uniform accounting and recordkeeping procedures for districts and
135 require each district to submit annually ~~[an audit of the district's funds to the commission]~~ the
136 information required in Section 17D-3-103;

137 (e) approve and make loans for agricultural purposes, through the loan advisory ~~[board]~~
138 subcommittee described in Section 4-18-106, from the Agriculture Resource Development
139 Fund~~[, for:]~~;

140 ~~[(i) rangeland improvement and management projects;]~~

141 ~~[(ii) watershed protection and flood prevention projects;]~~

142 ~~[(iii) agricultural cropland soil and water conservation projects;]~~

143 ~~[(iv) programs designed to promote energy efficient farming practices; and]~~

144 ~~[(v) programs or improvements for agriculture product storage or protections of a crop
145 or animal resource;]~~

146 (f) seek to obtain and administer federal or state funds~~[, including loan funds under this
147 chapter;]~~ in accordance with applicable federal or state guidelines and make loans or grants
148 from those funds to land occupiers for~~[:]~~ the preservation of soil, water, and air resources;

149 ~~[(i) conservation of soil or water resources;]~~

150 ~~[(ii) maintenance of rangeland improvement projects;]~~

151 ~~[(iii) development and implementation of coordinated resource management plans, as
152 defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and]~~

153 ~~[(iv) control or eradication of noxious weeds and invasive plant species;]~~

154 ~~[(A) in cooperation and coordination with local weed boards; and]~~

155 ~~[(B) in accordance with Section 4-17-114;]~~

156 (g) seek to coordinate soil and water protection, conservation, and development

activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies; and

~~[(h) plan watershed and flood control projects in cooperation with appropriate local, state, and federal authorities, and coordinate flood control projects in the state;]~~

~~[(i) assist other state agencies with conservation standards for agriculture when requested; and]~~

~~[(j)]~~ (h) when assigned by the governor, when required by contract with the Department of Environmental Quality, or when required by contract with the United States Environmental Protection Agency:

(i) develop programs for the prevention, control, or abatement of new or existing pollution to the soil, water, or air of the state;

(ii) advise, consult, and cooperate with affected parties to further the purpose of this chapter;

(iii) conduct studies, investigations, research, and demonstrations relating to agricultural pollution issues;

(iv) give reasonable consideration in the exercise of its powers and duties to the economic impact on sustainable agriculture;

(v) meet the requirements of federal law related to water and air pollution in the exercise of the commission's powers and duties; and

(vi) establish administrative penalties relating to agricultural discharges as defined in Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.

(2) The commission may:

(a) employ, with the approval of the department, an administrator and necessary technical experts and employees;

(b) execute contracts or other instruments necessary to exercise its powers;

(c) take necessary action to promote and enforce the purpose and findings of Section 4-18-102;

(d) sue and be sued; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2)(b) and (c).

Section 4. Section ~~4-18-106~~ is amended to read:

4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund money -- Authority board.

(1) There is created a revolving loan fund known as the Agriculture Resource Development Fund.

(2) The Agriculture Resource Development Fund shall consist of:

(a) money appropriated to it by the Legislature;

(b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;

(c) money received for the repayment of loans made from the fund;

(d) money made available to the state for agriculture resource development from any source; and

(e) interest earned on the fund.

(3) The commission shall make loans from the Agriculture Resource Development Fund ~~[as provided by Subsections 4-18-105(1)(c)(i) through (iv).]~~ for a:

(a) rangeland improvement and management project;

(b) watershed protection or flood prevention project;

(c) soil and water conservation project;

(d) program designed to promote energy efficient farming practices;

(e) improvement program for agriculture product storage or program designed to protect a crop or animal resource; or

(f) hydroponic or aquaponic system.

(4) The commission may appoint an advisory board that shall:

(a) oversee the award process for loans, as described in this section;

(b) ~~[make recommendations to the commission regarding]~~ approve loans; and

(c) recommend policies and procedures for the Agriculture Resource Development Fund that are consistent with statute.

(5) The commission may make a grant from the Agriculture Resource Development Fund to an entity that has the legal right to occupy land for:

(a) the development or implementation of a coordinated resource management plan with a conservation district, as defined in Section 17D-3-102; and

(b) control or eradication of noxious weeds and invasive plant species in cooperation and coordination with a local weed board.

Section 5. Section **17D-3-103** is amended to read:

17D-3-103. Conservation district status, authority, and duties.

(1) A conservation district created under this chapter:

(a) is a body corporate and politic;

(b) is a political subdivision of the state; and

(c) may sue and be sued.

(2) (a) A conservation district may:

(i) survey, investigate, and research soil erosion, floodwater, nonpoint source water pollution, flood control, water pollution, sediment damage, and watershed development;

(ii) subject to Subsection (2)(b), devise and implement on state or private land a measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water pollution, or other degradation of a watershed or of property affecting a watershed;

(iii) subject to Subsection (2)(b), devise and implement a measure to conserve, develop, utilize, or dispose of water on state or private land;

(iv) construct, improve, operate, and maintain a structure that the board of supervisors considers necessary or convenient for the conservation district to carry out its purposes under this chapter;

(v) acquire property, real or personal, by purchase or otherwise, and maintain, improve, and administer that property consistent with the purposes of this chapter;

(vi) enter into a contract in the name of the conservation district;

(vii) receive money from:

(A) a federal or state agency;

(B) a county, municipality, or other political subdivision of the state; or

(C) a private source;

(viii) subject to Subsection (2)(c), make recommendations governing land use within the conservation district, including:

(A) the observance of particular methods of cultivation;

(B) the use of specific crop programs and tillage practices;

(C) the avoidance of tilling and cultivating highly erosive areas where erosion may not

250 be adequately controlled if cultivated;

251 (D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other
252 structures; and

253 (E) the development or restoration, or both, of range or forest lands or other natural
254 resources, whether in private, state, or federal ownership;

255 (ix) plan watershed and flood control projects in cooperation with local, state, and
256 federal authorities, and coordinate flood control projects in the state;

257 [~~(ix)~~] (x) make recommendations for county and municipal land use authorities within
258 the conservation district to consider with respect to land use applications and other
259 development proposals;

260 [~~(ix)~~] (xi) employ clerical and other staff personnel, including legal staff, subject to
261 available funds; and

262 [~~(ix)~~] (xii) perform any other act that the board of supervisors considers necessary or
263 convenient for the efficient and effective administration of the conservation district.

264 (b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to
265 the consent of:

266 (i) the land occupier; and

267 (ii) in the case of school and institutional trust lands, as defined in Section 53C-1-103,
268 the director of the School and Institutional Trust Lands Administration, in accordance with
269 Sections 53C-1-102 and 53C-1-303.

270 (c) (i) Each recommendation under Subsection (2)(a)(viii) shall be uniform throughout
271 the conservation district or, if the board of supervisors classifies land under Subsection
272 (2)(c)(ii), throughout each land classification.

273 (ii) The board of supervisors may uniformly classify land within the conservation
274 district with respect to soil type, degree of slope, degree of threatened or existing erosion,
275 cropping and tillage practices in use, or other relevant factors.

276 (3) (a) Each conservation district shall annually submit to the commission, no later
277 than the date that the commission prescribes:

278 (i) a copy of the minutes of each conservation district meeting;

279 (ii) a copy of the conservation district's annual work plan; and

280 (iii) an accounting of the conservation district's financial affairs, as provided in

281 Subsection (3)(b).

282 (b) The accounting required under Subsection (3)(a)(iii) shall:

283 (i) be prepared by a disinterested person; and

284 (ii) show the conservation district's debits and credits, including accounts payable and
285 accounts receivable, the purpose of each debit, the source of each credit, and the actual cash
286 balance on hand.

287 Section 6. Section **17D-3-105** is amended to read:

288 **17D-3-105. Conservation districts subject to other provisions.**

289 (1) [A] Subject to Subsection (3), a conservation district is, to the same extent as if it
290 were a local district, subject to and governed by:

291 (a) Sections 17B-1-105, 17B-1-107, 17B-1-108, 17B-1-110, 17B-1-112, 17B-1-113,
292 17B-1-116, 17B-1-121, 17B-1-307, 17B-1-311, 17B-1-313, and 17B-1-314;

293 (b) Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts;

294 (c) Title 17B, Chapter 1, Part 7, Local District Budgets and Audit Reports;

295 (d) Title 17B, Chapter 1, Part 8, Local District Personnel Management; and

296 (e) Title 17B, Chapter 1, Part 9, Collection of Service Fees and Charges.

297 (2) For purposes of applying the provisions listed in Subsection (1) to a conservation
298 district, each reference in those provisions to the local district board of trustees means the
299 board of supervisors described in Section 17D-3-301.

300 (3) A conservation district may not exercise taxing authority.

301 Section 7. Section **17D-3-301** is amended to read:

302 **17D-3-301. Board of supervisors -- Number -- Term -- Chair and officers --**
303 **Quorum -- Compensation.**

304 (1) Each conservation district shall be governed by a board of supervisors.

305 (2) [(a)] The board of supervisors of a conservation district consists of five members
306 elected as provided in this part, at least three of whom shall be private agricultural land
307 operators.

308 ~~[(b) If the board of supervisors divides the conservation district into watershed voting~~
309 ~~areas under Section 17D-3-308, at least one member of the board of supervisors shall reside~~
310 ~~within each watershed voting area.]~~

311 (3) (a) The term of office of each member of a board of supervisors is four years.

(b) Notwithstanding Subsection (3)(a), if multiple conservation districts are consolidated or a single conservation district divided or dissolved under Part 2, Creation, Consolidation, Division, and Dissolution of Conservation Districts:

(i) the term of each member of the board of supervisors of the consolidated conservation districts or the divided or dissolved conservation district terminates immediately upon consolidation, division, or dissolution; and

(ii) (A) the commission shall hold an election, as provided in this part, for all board of supervisors members of the consolidated conservation district or divided conservation districts, as the case may be; and

(B) the term of the two candidates receiving the highest number of votes at an election under Subsection (3)(b)(ii)(A) shall be four years, and the term of the three candidates receiving the next highest number of votes shall be two years.

(4) The board of supervisors shall elect a chair from among their number, and may elect other officers from among their number that the board considers necessary.

(5) A majority of the board of supervisors constitutes a quorum for the transaction of board business, and action by a majority of a quorum present at a meeting of the board constitutes action of the board.

(6) For performing official duties, each member of the board of supervisors of a conservation district shall receive:

(a) per diem and travel expenses in accordance with Section 11-55-103; and

(b) actual and necessary expenses.

Section 8. Repealer.

This bill repeals:

Section 17D-3-306, Eligibility to vote in an election for board of supervisors members.

Section 17D-3-307, Supervisor's election mailing list.

Section 17D-3-308, Watershed voting areas.

**Section 17D-3-309, Election of board of supervisors members -- Ballots --
Commission duties regarding elections -- Election expenses.**

Legislative Review Note
Office of Legislative Research and General Counsel